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GOVERNMENT GAZETTE

BOLETIM OFICIAL

SUPPLEMENT

(No. 2)

(SUPPLEMENTO)

GOVERNMENT OF GOA, DAMAN AND DIU

Legislative Assembly of Goa, Daman and Diu

Legislature Department

LA/1477/65

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on the 25th January 1965, is hereby published for general information in pursuance of the provisions of rule 127 of the Rules of procedure and Conduct of Business of the Legislative Assembly.

(Bill No. 2 of 1965)

A Bill to amend the Goa, Daman and Diu Sales Tax Act, 1964.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Sixteenth Year of the Republic of India, as follows:—

Short title and commencement.

1. (1) This Act may be called the Goa, Daman and Diu Sales Tax (Amendment) Act, 1965.

(2) It shall be deemed to have come into force on the first day of October, 1964.

Amendment of section 6.

2. In section 6 of the Goa, Daman and Diu Sales Tax Act, 1964 (hereinafter called the principal Act), in the Proviso, for the words «commencement of» the words «commencement of liability under» shall be substituted.

Amendment of Section 19.

3. In section 19 of the principal Act, in the Proviso, to sub-section (1), for the figures «28» the figures «27» shall be substituted.

Statement of Objects and Reasons

In the Sales Tax Act as passed by the Assembly a few unintended errors had crept in. The Bill is intended to correct these.

Panjim,

January 25, 1965.

D. B. BANDODKAR

Chief Minister

ASSEMBLY HALL

Panjim, January 25, 1965

S. BALAKRISHNAN

Secretary to the Legislative
Assembly of Goa, Daman
and Diu.

LA/1478/65

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on the 25th January 1965, is hereby published for general information in pursuance of the provisions of rule 127 of the Rules of procedure and Conduct of Business of the Legislative Assembly.

The Goa, Daman and Diu Administrative Tribunal Bill, 1965

(Bill no. 4 of 1965)

A Bill to constitute an Administrative Tribunal for the Union Territory of Goa, Daman and Diu, to invest it with jurisdiction in certain matters and to provide for matters connected therewith.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu, in the Sixteenth Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Goa, Daman and Diu Administrative Tribunal Act, 1965.

(2) It extends to the whole of the Union Territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

- (a) «Chairman» means the Chairman of the Tribunal;
- (b) «Official Gazette» means the Goa, Daman and Diu Government Gazette;
- (c) «prescribed», except where it occurs in the expression «prescribed by regulations», means prescribed by rules made under this Act;
- (d) «State Government» means the Lieutenant Governor of Goa, Daman and Diu;
- (e) «Tribunal» means the Administrative Tribunal constituted by this Act.

3. Constitution of Tribunal.—(1) As from the commencement of this Act, there shall be a Tribunal to be called the Administrative Tribunal for the Union Territory of Goa, Daman and Diu to exercise the jurisdiction, perform the functions and discharge the duties entrusted to it by or under this Act or any other law for the time being in force.

(2) The Tribunal shall consist of a Chairman and such number of other Members as may be determined by the State Government.

(3) The qualifications for a person to be appointed as Chairman or a Member shall be such as may be prescribed:

Provided that the Chairman shall be a person who shall have such legal qualifications or experience as may be prescribed.

4. Vacancies, etc., not to invalidate acts and proceedings of Tribunal.—(1) No act done by the Tribunal and no proceedings before it shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Tribunal.

(2) If during the course of any proceedings any Member of the Tribunal is for any reason unable to discharge his functions or relinquishes his membership of the Tribunal, another Member shall be appointed in his place and upon his joining the Tribunal, the proceedings shall be continued as if he had been on the Tribunal from the commencement.

5. Sittings and decisions of Tribunal.—(1) The Tribunal shall ordinarily sit at Panjim; but may sit at any other place convenient for the transaction of the business, which the Chairman, with the approval of the State Government, may, by general or special order, notify in the Official Gazette.

(2) The Tribunal may sit either as a whole or in Benches of two or more Members with or without the Chairman, in such manner as may be prescribed by regulations.

(3) Where Benches are constituted, every such Bench shall exercise and discharge all the powers and functions of the Tribunal and the final orders in the case shall be expressed to be made by the Tribunal.

(4) Where there is any difference of opinion among the Members (including the Chairman) of the Tribunal or of a Bench thereof, on any point, the decision of the Tribunal or the Bench shall be in accordance with the opinion of the majority of such Members.

(5) Where such opinion is equally divided, the matter shall be referred to the Chairman whose decision thereon shall be deemed to be the decision of the Tribunal or, as the case may be, of the Bench:

Provided that where a Bench consists of the Chairman and any other Member or Members and the opinion is equally divided, then, the point shall be referred by the Chairman for hearing by one or more of the other Members of the Tribunal and such point shall be decided according to the opinion of the majority of the Members of the Tribunal who have heard it, including those who first heard it.

6. Jurisdiction of Tribunal.—(1) The Tribunal shall have all such jurisdiction as was exercisable by the *Tribunal Administrativo* in relation to matters specifically provided by the *Reforma Administrativa Ultramarina* in force immediately before the commencement of this Act, in so far as such matters are matters enumerated in the State List in Seventh Schedule to the Constitution:

Provided that if the jurisdiction in relation to any matter specifically provided by the *Reforma Administrativa Ultramarina* and enumerated in the State List is conferred upon any other tribunal court or other authority by or under any other law for the time being in force, the Tribunal shall not exercise such jurisdiction.

(2) The Tribunal shall also have jurisdiction in relation to any other matter if such jurisdiction is conferred by or under any Act of the Legislature of the Union Territory of Goa, Daman and Diu.

(3) The Tribunal shall have no jurisdiction in any matter which is pending in a court of law or which, in its opinion, involves a question as to the validity of any enactment for the time being in force.

7. Tribunal to have powers of civil court.—(1) In exercising its jurisdiction, the Tribunal shall have all the powers of a civil court for—

- (i) taking evidence on oath, affirmation or affidavit;
- (ii) summoning and enforcing the attendance of witnesses;
- (iii) compelling the discovery and production of documents and material objects;
- (iv) requisitioning any public record or any copy thereof from any court or office;
- (v) issuing summons for examination of witnesses or production of documents; and
- (vi) such other purposes as may be prescribed.

(2) The Tribunal shall be deemed to be a civil court for all the purposes of sections 195, 480 and 482 of the Code of Criminal Procedure, 1898, and its proceedings shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

(3) In the case of any affidavit to be filed, any officer appointed by the Tribunal in this behalf may administer the oath to the deponent.

8. Government to be heard and Government Pleader to assist in certain cases.— (1) If at any stage of any proceedings before the Tribunal, it appears to the Tribunal that the proceedings raise a question as to the interpretation of a law which is of such a nature and of such public importance that it is expedient to issue notice to the State Government, the Tribunal shall issue notice to the State Government, and that Government may, if it thinks fit, appear; the Tribunal shall then hear the State Government before deciding the question.

(2) If it appears to the State Government that the interpretation of a provision of a law in any proceedings before a Tribunal is of such a nature and of such public importance that it is expedient that the State Government should be heard before decision of the question, it may apply to the Tribunal to be heard in the proceedings and the Tribunal shall not decide the question without hearing the State Government.

(3) The Tribunal may, whenever it considers it necessary, require the assistance of the Government Pleader on any matter or in any case or class of cases pending before it and, in such cases may direct the payment of such fees or honoraria as may be prescribed.

9. Finality of decisions of Tribunal.— Subject to the other provisions of this Act, every order or decision of the Tribunal shall be final and conclusive.

10. Power of review.— The Tribunal may, either on its own motion or on the application of any party interested, and where the State Government is heard under section 8, on the application of the State Government, review its own order or decision in any case and pass in reference thereto such order as it thinks just and proper:

Provided that no such application made by any party shall be entertained unless the Tribunal is satisfied that there has been discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of such party or could not be produced by the party at the time when its order or decision was made, or that there has been some mistake or error apparent on the face of the record or for any other sufficient reason:

Provided further that no such order or decision shall be varied or revised unless notice has been given to the parties interested to appear and be heard in support of such order.

(2) An application for review under sub-section (1) by any party or by the State Government shall be made within ninety days from the date of the order or decision of the Tribunal:

Provided that in computing the period of limitation, the provisions of the Limitation Act, 1963, applicable to application for review of a judgment or order of a civil court shall, as far as may be, apply to application for review under this section.

11. Execution of Orders.— (1) All final orders of the Tribunal shall be executed, as far as may be, in the same manner as a decree of a civil court.

12. Indemnity.— (1) The Chairman or any other Member of the Tribunal shall not be liable to be sued or proceeded against in any court for any act done or ordered to be done by him or by the Tribunal in the discharge of his or its duty whether or not within the limits of his or its jurisdiction:

Provided that he, at the time, in good faith believed himself to have jurisdiction to do or order the act complained of.

(2) No officer or other person bound to execute the lawful orders of the Tribunal shall be liable to be sued or proceeded against in any court, in respect of the execution of such orders.

13. Power to make rules.— (1) The State Government may, by notification in Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for the following matters, namely:—

- (a) the process and other fees to be paid and the deposits to be made by the parties to the proceedings before the Tribunal and the manner of accounting of all moneys received by the Tribunal;
- (b) the powers of a civil court which may be vested in the Tribunal;
- (c) the fee or honoraria to be paid to the Chairman, a Member or the Government Pleader;
- (d) any other matter which has to be, or may be prescribed or provided for by rules.

(3) All rules made under this Act shall be published in the Official Gazette and shall be laid on the table of Legislative Assembly after they are made and shall be subject to such modifications as the Assembly may make during the Session in which they are so laid.

14. Power to make regulations.— (1) Subject to the provisions of this Act and the rules made thereunder and to the previous approval of the State Government, the Chairman may make regulations for regulating the practice and procedure before the Tribunal.

(2) In particular and without prejudice to the generality of the foregoing power, the Chairman may make regulations for the following matters, namely:

- (a) the award of costs by the Tribunal;
- (b) the right of audience before the Tribunal;
- (c) the sittings of Members in Benches constituted by the Chairman.

(3) The regulations made under this section shall be published in the Official Gazette.

15. Transitional.— (1) Notwithstanding anything contained in this Act or in any other law for the time being in force, the Administrative Tribunal constituted by order of the State Government no. L. D. 45/64 dated the 26th June, 1964, shall be deemed to have been validly constituted in accordance with law and the President and Members thereof appointed by the same order shall be deemed to have been duly appointed in accordance with law and the said Presi-

dent and Members shall be the Chairman and Members respectively of the Tribunal under this Act, until appointments are made in their places.

(2) Any proceeding pending immediately before the commencement of this Act before the Tribunal constituted under the order referred to in sub-section (1) shall be dealt with and disposed of by the Tribunal under this Act as if instituted before it.

16. Repeal.—(1) On the commencement of this Act, the provisions of the *Reforma Administrativa Ultramarina* dealing with the constitution, organisation and powers of the *Tribunal Administrativo* shall stand repealed.

(2) The provisions of the General Clauses Act, 1897, shall apply to such repeal as if the said *Reforma Administrativa Ultramarina* and this Act were Central Acts.

(3) In respect of any matter for which rules or regulations may be made under this Act, the corresponding provisions, if any, in the *Reforma Administrativa Ultramarina* shall continue to be in force until such rules or regulations are made.

17. Power to remove difficulties.—The State Government may, by order, do anything, not inconsistent with this Act, for removing any difficulty which arises in giving effect to the provisions of this Act:

Provided that the power under this section shall not be exercisable after the expiry of a period of two years after the commencement of this Act.

Memorandum of Delegated Legislation

Clause 13 of the Bill enables the State Government to make rules for certain purposes and clause 14 gives power to the Chairman of the Tribunal to make regulations in regard to the practice and procedure before the Tribunal.

Financial Memorandum

The expenditure is involved for the payment of honorarium to the Chairman, Members and the Government Pleader and on salaries and allowances of the staff of the Tribunal. At present certain fees and charges are levied by the Tribunal under the old law which to some extent meet this cost. The same position might hold hereafter also with the result that the financial commitment is not likely to exceed what is already being incurred.

Statement of Objects and Reasons

One of the popular institutions of Goa, Daman and Diu in the old set up was the *Tribunal Administrativo*, first constituted by a Portuguese Decree Law. It discharged important functions under the various laws relating to Comunidades, Municipality, etc. The Chief Justice and two other Judges of the *Tribunal de Relação* were the Chairman and Members, respectively, of the *Tribunal Administrativo* which had also other Members. With the constitution of the Judicial Commissioner's Court, *Tribunal de Relação* was abolished. Further, the Judicial Commissioner's Court was declared as a High Court for various purposes

of Constitution including Article 227, under which it had supervisory jurisdiction over all Tribunals. The question arose whether in view of this, the Tribunal should be abolished. The Government, in pursuance of the policy to retain whatever was good in the old administration, decided to retain the Tribunal with a revised constitution and also to sponsor legislation to give statutory recognition to the Tribunal. The new Tribunal will have the same jurisdiction as was exercisable by the *Tribunal Administrativo* under the old law, in so far as it relates to matters in the State List of the Constitution. In addition, it is proposed to utilise the Tribunal for discharging other statutory functions of a quasi-judicial nature.

The Bill is intended to give effect to this.

Panjim,
January, 21, 1965.

TONY FERNANDES
Law Minister

ASSEMBLY HALL,
Panjim, January 25, 1965

S. BALAKRISHNAN
Secretary to the Legislative
Assembly of Goa, Daman
and Diu

Secretariat

Development Department

LAND ACQUISITION ACT, 1894 (Act I of 1894)

LQN/10/18

Whereas it appears to the Government of Goa, Daman and Diu (hereinafter referred to as «the Government») that the land specified in the schedule hereto (hereinafter referred to as «the said land») is needed for the public purpose viz-for construction of Medical College, hostels and Hospital buildings.

It is hereby notified under the provisions of section 4 of the Land Acquisition Act, 1894 (Act I of 1894) that the said land is needed for the public purpose, specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyors or other persons employed upon the said land, for the purpose of the said acquisition. Any contracts for the disposal of the said land, by sale, lease, mortgage, assignment, exchange or otherwise or any outlay or improvements made therein without the sanction of the Collector, after the date of this Notification will under section 24 (Seventhly) of the said Act, be disregarded by the officer assessing compensation for such parts of the said land, as may be finally acquired.

3. The Govt. is further pleased to direct under sub-section (4) of section 17 of the said Act, that as the acquisition of the said land is urgently necessary the provisions of section 5 A of the said Act, shall not apply in respect of the said land.

4. Under clause (c) of section 3 of the said Act, the Govt. has appointed the Director of P. W. D. Goa, Daman and Diu, to perform the functions of the Collector under the Act.

5. The Govt. is also pleased to authorise under sub-section (2) of section 4 of the said Act, the following officers to do the acts specified therein in respect of the said land.

1. The Director of P. W. D. Goa, Daman and Diu.
2. The Director of Industries, Mines and Land Survey, Goa, Daman and Diu.
3. The Dean, Goa Medical College.

SCHEDULE

A strip of land, of about 3 kms. length and about 500 metres width situated on the right side of the Panjim, Agaçaim Road and starting from the point near the boundary of Calapur and Bambolim village,

where the abovesaid Road and the Bambolim village Road meet, and comprised in

Con- celho	Village	Survey Nos.	Approximate area
Goa	Bambolim	Part of Survey nos. 4, 8, 9, 10, 11, 12, 36, 37, 38, 39, 213, 214 and 215.	119 hectares.
	Siridão	Part of Survey nos. 2 & 4	
	Calapur	Part of Survey no. 682	

By order and in the name of the Administrator of the Union Territory of Goa, Daman and Diu.

D. V. Savant, Deputy Secretary (Health).

Panjim, 21st January, 1965.